

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

MICHAEL FOX,

Plaintiff,

v.

ERNEST ZEIGLER,

Defendant.

Case No. 1:20-cv-00290-KES-CDB (PC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS AND GRANTING  
DEFENDANT'S MOTION FOR SUMMARY  
JUDGMENT

(Docs. 38, 64)

Plaintiff Michael Fox is a state prisoner proceeding pro se and in forma pauperis in this civil rights action filed under 42 U.S.C. § 1983. This matter was referred to a United States magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. This case proceeds on a claim for deliberate indifference to serious medical needs in violation of the Eighth Amendment and a medical malpractice claim against defendant Ernest Zeigler. Doc. 28.

On September 7, 2021, defendant filed a motion for summary judgment. Doc. 38. After receiving an extension of time to file an opposition, plaintiff opposed the motion for summary judgment. Doc. 47. On May 2, 2023, the assigned magistrate judge issued findings and recommendations for the Court to grant defendant's motion for summary judgment. Doc. 64. Specifically, the findings and recommendations found that defendant applied the arm cast on plaintiff according to Dr. Kim's orders and that plaintiff failed to establish a triable issue of fact

1 as to causation. *Id.* at 10-11. The findings and recommendations were served on the parties and  
2 contained notice that any objections were to be filed within fourteen days of service. *Id.* at 11.  
3 Plaintiff filed objections to the findings and recommendations, and defendant filed a response to  
4 the objections. Docs. 69, 71.

5 In accordance with 28 U.S.C. § 636(b)(1), this Court has conducted a de novo review of  
6 this matter. Plaintiff generally asserts that defendant, Dr. Kim, and defense counsel have made  
7 false statements and committed perjury. *See* Doc. 69. Plaintiff also references various exhibits  
8 he submitted with his opposition to the motion for summary judgment to demonstrate errors in  
9 the magistrate judge's factual findings. *See id.* However, the exhibits plaintiff submitted in  
10 support of his opposition to summary judgment do not undermine the magistrate judge's findings  
11 and recommendations and do not establish any perjury by the defense. Plaintiff argues that his  
12 arm was not placed in a cast when defendant claims, but the medical records plaintiff cites  
13 indicate that defendant applied the right arm cast on October 1, 2018, as found in the findings  
14 and recommendations. *See* Doc. 47 at 9; Doc. 64 at 10. Plaintiff fails to raise a triable issue of  
15 fact regarding causation, an element needed for his Eighth Amendment deliberate indifference  
16 and state medical malpractice claims to survive.

17 After carefully reviewing the file, including plaintiff's objections, the Court finds the  
18 findings and recommendations are supported by the record and proper analysis.

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1 Accordingly,

- 2 1. The findings and recommendations filed on May 2, 2023, (Doc. 64), are adopted  
3 in full;  
4 2. Defendant's motion for summary judgment, (Doc. 38), is granted; and  
5 3. The Clerk of Court is directed to close this case.

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8 IT IS SO ORDERED.

9 Dated: October 7, 2025

  
UNITED STATES DISTRICT JUDGE